

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

STEVEN BRADLEY HODGES,
Plaintiff
v.
RENEE BAKER, et. al.,
Defendants

Case No.: 3:20-cv-00498-RFB-WGC

Order

Re: ECF No. 12

9 Plaintiff filed his original complaint, which the court screened, and allowed Plaintiff to
10 proceed with an Eighth Amendment failure to protect claim against Munn in Count I; a due
11 process claim against Walsh in Count III, and a First Amendment free exercise claim against
12 Stogner in Count IV. Defendants Baker, Dzurenda, and Daniels were dismissed from Count I
13 without prejudice. Count II was dismissed without prejudice so that Plaintiff could assert his
14 negligence claim in State court. (ECF No. 5.) A limited notice of appearance was entered on
15 Defendants' behalf for the purpose of participating in an early mediation conference, which was
16 unsuccessful. (ECF Nos. 7, 9.)

17 On October 26, 2021, the court granted Plaintiff's application to proceed *in forma*
18 *pauperis* and ordered the Attorney General to file a notice of acceptance of service by November
19 16, 2021. (ECF No. 11.) On November 10, 2021, Plaintiff filed the first amended complaint.
20 (ECF No. 12.) On November 15, 2021, service was accepted on behalf of Munn and Walsh, and
21 a last known address was filed under seal for Stogner. (ECF Nos. 14, 15.)

22 On December 27, 2021, Walsh and Munn filed their answer to the original complaint.
23 (ECF No. 20.)

1 “A party may amend its pleading once as a matter of course within: (A) 21 days after
2 serving it, or (B) if the pleading is one to which a responsive pleading is required, 21 days after
3 service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f),
4 whichever is earlier.” Fed. R. Civ. P. 15(a)(1)(A), (B). Otherwise, a party must seek the opposing
5 party’s written consent or leave of court to amend a pleading. Fed. R. Civ. P. 15(a)(2).

6 Here, Plaintiff filed his amended complaint before service was accepted, and before the
7 responsive pleading was filed; therefore, Rule 15(a)(1) is not applicable and Plaintiff was
8 required to seek permission from the opposing parties or seek leave of court before filing an
9 amended complaint.

10 Plaintiff has **30 days**, until **February 2, 2022**, to file a motion for leave to amend
11 regarding his proposed amended complaint (ECF No. 12.) Defendants shall have until
12 **February 16, 2022**, to file a response to the motion. Plaintiff has until **February 23, 2022** to file
13 any reply brief.

14 **IT IS SO ORDERED.**

15 Dated: January 3, 2022

16 
17 William G. Cobb
United States Magistrate Judge

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